

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

KIERA S.,¹

Plaintiff,

v.

NANCY A. BERRYHILL, Deputy
Commissioner for Operations, performing the
duties and functions not reserved to the
Commissioner of Social Security,

Defendant.

Case No. 6:17-cv-01082-SU

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Patricia Sullivan issued Findings and Recommendation in this case on March 7, 2019. ECF 21. Magistrate Judge Sullivan recommended that the Application for Fees Pursuant to EAJA (ECF 18) be granted in part and denied in part, with a reduction of the requested fees by \$4,818.72, for a total fees award of \$10,262.37.

¹ In the interest of privacy, this opinion uses only the first name and the initial of the last name of the non-governmental party in this case. Where applicable, this opinion uses the same designation for a non-governmental party's immediate family member.

Under the Federal Magistrates Act (“Act”), the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge’s findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”). Although in the absence of objections no review is required, the Magistrates Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the Court review the magistrate judge’s recommendations for “clear error on the face of the record.”

Plaintiff timely filed an objection. ECF 24. The Court has reviewed *de novo* those portions of Magistrate Judge Sullivan’s Findings and Recommendation to which Plaintiff has objected, as well as Defendant’s response. The Court agrees with Magistrate Judge Sullivan’s reasoning and ADOPTS those portions of the Findings and Recommendation.

For those portions of Magistrate Judge Sullivan’s Findings and Recommendation to which neither party has objected, this Court follows the recommendation of the Advisory

Committee and reviews those matters for clear error on the face of the record. No such error is apparent.

The Court **ADOPTS** Magistrate Judge Sullivan's Findings and Recommendation, ECF 21. The Application for Fees Pursuant to EAJA (ECF 18) is GRANTED in part and DENIED in part, with a reduction of the requested fees by \$4,818.72, for a total fees award of \$10,262.37.

IT IS SO ORDERED.

DATED this 22nd day of April, 2019.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge